

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

May 26, 2011

In the Matter of ROBINSON, Minor.

No. 300648; 300779
St. Clair Circuit Court
Family Division
LC No. 10-000200-NA

Before: CAVANAGH, P.J., and TALBOT and STEPHENS, JJ.

TALBOT, J (*concurring in part, dissenting in part*).

I respectfully dissent from the majority's decision to reverse and remand this matter as I believe more than sufficient evidence existed to uphold the termination of parental rights and the trial court's ruling that the child's best interests would be served by the termination.

Initially, I concur with the majority's determination that clear and convincing evidence existed to support the termination of the mother's parental rights premised on the previous termination of her rights to five children and her unsuccessful efforts at rehabilitation.¹ I also agree with the majority that the termination in 2008 of the parental rights of this mother and father to this minor child's sibling substantiated the termination of their parental rights to this child.² I also concur with the determination that the father's rights were properly terminated based on potential harm to the minor child if returned to his care.³

My first point of contention is with the majority's determination that the mother's efforts to remedy deficiencies in her history and ability to parent did not support the trial court's termination of her parental rights based on the potential harm to this child if returned to the her care.⁴ While she has demonstrated some initiative in modifying her life by taking classes, recent compliance with mental health care and in trying to establish independent housing, I do not attribute to these efforts the significance that the majority does. Most of these undertakings were initiated only four months before this child's birth. As such, contrary to the position of the

¹ MCL 712A.19b(3)(i).

² MCL 712A.19b(3)(l).

³ MCL 712A.19b(3)(j).

⁴ MCL 712A.19b(3)(j).

majority, I do not find them to demonstrate a significant change of sufficient duration or maintained effort to overcome the prolonged, ten-year history of ineffective parenting.

I agree with the trial court's determination that a substantial risk of harm existed for the child if returned to the parents based on the long history of neglect of other children, the failure to consistently engage in and benefit from proffered services in previous proceedings, the difficulties of the mother in maintaining the stability of her mental health and complying with treatment and her propensity to engage in relationships with inappropriate men. The trial court expressed justifiable concerns pertaining to the father's previous conviction for criminal sexual conduct with a minor, his chronic unemployment, probation for drug trafficking, his lack of demonstrated concern for the well-being of his other child during a different protective proceeding, in addition to his commission of a third larceny offense and failure to register as a sex offender in the 18 months preceding the birth of this child. While the parties have made some efforts, which I would recognize, I would characterize their efforts as being too little, too late.

In addition, I believe that the propriety of termination on the statutory grounds identified demonstrates that termination of the parental rights of these individuals was in the child's best interests.⁵ I would contend that despite the parties expressed desire and initial attempts to alter their circumstances they have not demonstrated a sufficient or maintained improvement in their abilities or situations given their prolonged history of problems to suggest, as does the majority, that it would not be in the child's best interest to terminate their parental rights.

Inexplicably, the majority finds it not to be in the child's best interest to terminate the father's rights based solely on the vague indication, "[T]he record overwhelmingly demonstrates that the father's familial support is integral to the family, albeit with few financial resources." I find this language and reasoning confusing and am unsure regarding the majority's meaning as not only is the father's ability to support the family questionable, concerns pertaining to his criminal history should outweigh any possible benefit of "familial support." Further, if the majority is referring to support from paternal family members, testimony indicated that any financial support from this source could only be minimal or of limited amounts and is not relevant regarding a determination of the father's ability to parent and provide for this child. Even if the father had demonstrated that he was a consistent and adequate provider for this child, which I do not believe he has, it does not serve to counterbalance or justify ignoring his criminal history and previous termination of his rights for his neglect of this child's sibling. Based on the record and contrary to the majority's reasoning, I find it to be of tremendous significance that the father has multiple convictions and remains on probation and that he has not routinely demonstrated an ability to support himself or his offspring. In fact, he has not shown an ability to obtain either stable housing or employment during the two years that have elapsed between the termination of his rights to this child and her sibling.

Similarly, over the years, the mother's rights to five other children have been terminated. She has a history of mental health problems with questionable treatment compliance and has not

⁵ MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2007).

shown an ability to be self-supportive or to provide for her children. In the past, she has engaged in relationships that placed some of her children at significant risk. There was evidence of the mother's use of illegal substances during her pregnancy with this child. The mother's suggestion that her previous issues were attributable to her immaturity is disingenuous and fails to recognize that she was 29 years of age when her rights to this child's sibling were terminated. Her prolonged history and failure to demonstrate an ability to properly parent several children despite interventions and the provision of services in the past, her mental health issues and belated attempt to rehabilitate herself and alter a long-standing trajectory of negative behavior necessitates my concurrence with the trial court's findings and rulings.

Based on these factors and a review of the entire record, I would find that the trial court did not clearly err in terminating the parental rights of these individuals to the minor child and that such termination was in the child's best interests.

/s/ Michael J. Talbot